

## Zoning Board of Appeals Meeting Minutes 3-10-16

Pursuant to notice duly filed with the Town Clerk, a public meeting of the Board of Appeals was held on Thursday March 10, 2016 at 7:00 p.m. in the First Floor Hearing Room, 141 Keyes Road, Concord, Massachusetts.

**PRESENT:**

**Members:**

Robert Sepucha, Chair  
John Brady  
Elizabeth Akehurst-Moore  
James Smith

Elizabeth Hughes, Town Planner  
John Minty, Building Commissioner  
Andrew W. Mara, Administrative Assistant.

Chair Sepucha called the meeting to order at 7:00 p.m.

Voting was: Robert Sepucha, John Brady (except 40/54 Westford Road & 155A Lowell Road), Elizabeth Akehurst-Moore, and James Smith (only 40/54 Westford Road & 155A Lowell Road)

### ***Discussion with Planning Board representatives regarding Article 42; Proposed Floor Area Ratio Bylaw***

Planning Board members Matt Johnson and Gary Kleiman appeared before the Board and discussed Article 42 – Floor Area Ratio Bylaw. Mr. Johnson said that the proposed bylaw was scheduled to be voted on at the upcoming Annual Town Meeting in April. Mr. Johnson noted that the proposed amendment was intended to address the concerns of existing smaller homes being replaced with larger homes in existing neighborhoods and the loss of neighborhood character. He presented the Board with the current draft of the presentation for Town Meeting. Mr. Johnson stated that floor area ratio (FAR) was a way of calculating the allowed square footage of all buildings on a lot as a ratio of the existing lot area. The allowed maximum FAR proposed is a calculation that considers the existing lot size, allowing for a more equitable floor area ratio for smaller nonconforming lots in each of the four residential districts. Mr. Johnson reviewed the different levels of allowable GFA for structures in the different residential districts. Mr. Johnson stated that the proposed amendment included a mechanism for property owners to apply for a Special Permit from the Maximum FAR from the Board of Appeals.

Mr. Kleiman explained the Planning Board's rationale and perspective on how they were approaching the proposed amendment. He noted that the formula attempted to balance the rights of individual land owners to maximize density on a lot with the preservation of collective neighborhood character.

Mr. Johnson asked Board members if they had any questions or concerns about the proposed bylaw amendment. He also inquired if there were any problems with the power point presentation that should be addressed.

Chairman Sepucha asked Mr. Johnson where the FAR calculation formulas were generated from. Mr. Johnson stated that the formulas were based on numerous factors. He cited formulas used by other nearby Towns in their FAR bylaws. Mr. Johnson said that the formulas utilized data and information gathered by Planning Board members and Planning Division staff. He also mentioned that the Planning Division employed an intern during the previous summer whose task was to gather information about FAR bylaws enacted by other communities in Massachusetts.

Board members discussed how the proposed FAR bylaw would impact their review of future applications. Town Planner Hughes provided the Board with potential scenarios of what Town staff anticipated if the bylaw were to pass at Town Meeting. She noted that the proposed FAR bylaw would not replace Section 7.1.5 of the existing Zoning Bylaw but rather strengthen it. Mr. Johnson and Mr. Kleiman asked if the Board wished to make an official endorsement of the proposed bylaw amendment. Chairman Sepucha opined that it was not in the best interest of the Board to endorse any proposed zoning bylaw since it was the Board's responsibility to interpret the bylaws. Other Board members agreed with the position of Chairman Sepucha. Mr. Johnson and Mr. Kleiman thanked the Board for meeting with them. Board members expressed gratitude for Mr. Johnson's and Mr. Kleiman's hard work.

### **Other Business:**

- *Approval of Minutes for 2/18/16 Meeting*

The minutes for the 2/18/16 meeting were not ready to be reviewed at this time.

### **New Hearings:**

***Michelle Scavongelli for a Special Permit, under Sections 6.2.6, 7.1.2, 7.1.3, 7.1.5, and 11.6, to reconstruct, extend, alter, or change a nonconforming structure, for addition at 129 Everett Street (Parcel # 0194)***

Chairman Sepucha opened the public hearing and reviewed the Application.

Project Architect Elise Stone and Applicant Michelle Scavongelli appeared for the hearing and presented the Application. Ms. Stone explained the details of the Application. The Applicant sought a Special Permit for an addition to the front porch of an existing structure. 129 Everett Street is located in the Residence C Zoning District and is a nonconforming structure and lot. The lot has 75' of frontage (80' required). The existing structure has of front setback of 16.5' (20' required). The Applicant proposed to construct an addition to the front porch that will maintain the existing nonconforming front setback.

Chairman Sepucha asked from comments from the Board.

Chairman Sepucha asked Ms. Stone if any abutting structures had similar front porches. Ms. Scavongelli discussed the abutting structures on both sides of her property.

Chairman Sepucha asked for comments from the audience and there was none. The Applicant provided the Board with a letter of support from an abutter.

Mr. Brady moved to grant to the Applicant, Michelle Scavongelli a Special Permit with conditions, to reconstruct, extend, alter, or change a non-conforming structure, for addition at 129 Everett Street, finding that the adverse effects of the altered structure will not outweigh its beneficial impacts to the public interest, the Town and the neighborhood, in view of the characteristics of the site and the proposal in relation to that site. Ms. Akehurst-Moore seconded. All **VOTED** in favor.

***Mattworks LLC on behalf of Todd Griffith, for a Special Permit, under Sections 7.1.2, 7.1.3, 7.1.5, and 11.6, to reconstruct, extend, alter, or change a non-conforming structure, so that the new structure is more than fifty percent greater than the gross floor area of the existing structure, for addition at 269 Sudbury Road (Parcel # 0377)***

Chairman Sepucha opened the public hearing and reviewed the Application.

Applicant Matthew Hall of Mattworks LCC appeared for the hearing and presented the Application. The Applicant sought a Special Permit for a third floor addition to the existing structure at 269 Sudbury Road. The lot, which is located in the Residence B Zoning District, is nonconforming because it has an area of 18,250 sq. ft. (20,000' sq. ft. required) and a frontage of 84' (125' required). Mr. Hall presented a model of the existing structure and the proposed structure as he reviewed the details of the Application. The current structure was a small cement block cape built in the 1940's. Mr. Hall stated that the functionality of the second floor was limited due to the low ceiling height and the pitch of the roof. He noted that during the design phase, it became clear that any additions that altered the footprint of the structure would need to be reviewed and approved by the Natural Resource Commission (NRC). Mr. Hall felt that any changes to the footprint were very limited by the existing property conditions. He opined that because there were clear limitations on how far the structure could expand horizontally, it was logical to expand the structure vertically and thus reduce any impact to the existing soil conditions. The third floor addition would result in structure with a flat roof. He stated that the proposed third story addition would keep the existing block wall and result in a structure that was tall and compact. Mr. Hall reviewed the calculations for existing GFA, allowable GFA, and proposed GFA. The GFA of the existing structure was 1,125 sq. ft. The allowable GFA by right was 1,688 sq. ft. The proposed GFA with a Special Permit was 2,038 sq. ft.

Chairman Sepucha asked for comments from the audience.

Susanne Foley, 235 Sudbury Road, inquired if the Natural Resources Commission had reviewed the Application. Ms. Foley was advised by Chairman Sepucha that the Board was in receipt of correspondence from Assistant Director of Natural Resources Lori Capone that stated the NRC administratively approved the addition with the understanding that there would be no ground disturbance, no increase in footprint, and all work would be completed by hand without the use of heavy machinery. Ms. Foley stated that the immediate area suffered from poor water drainage asked if the proposed construction would improve water drainage conditions. The Board asked the Applicant if he could elaborate on proposed water collection services. Mr. Hall noted that no changes to the footprint were part of the proposal and that water would be drained from the roof via standard gutters.

Chairman Sepucha asked for comments from the Board.

Mr. Brady asked if there were any similar small structures in the immediate neighborhood. Mr. Hall reviewed photos of nearby structures with the Board.

Chairman Sepucha asked for comments from Building Commissioner Minty. The Building Commissioner noted that the existing structure was a victory home built after World War II. He noted that the foundations of these types of homes typically failed over time. He questioned whether the foundation would be sturdy enough to support the proposed addition. The Applicant stated that the next step after getting approval from the Board was to test the foundations to verify they could withstand the proposed addition.

Ms. Akehurst-Moore asked for input from Town Planner Elizabeth Hughes. Town Planner Hughes advised the Board on the sections of the Zoning Bylaw that were applicable to the Application. She noted that the Board had the authority to contrast the proposed alteration with the height and massing of other structures in the immediate neighborhood. She pointed out that the Board had the authority to consider whether the proposed structure would be more detrimental to the neighborhood character than the existing structure.

Chairman Sepucha asked the Building Commissioner if he knew the height of adjacent structures. The Building Commissioner estimated that the height of nearby structures, particularly those recently constructed, were generally around 34' to 35' tall. Mr. Hall noted that the third floor addition was designed to allow functionality of the structure without changing the existing footprint.

After a brief discussion, Board members agreed that the hearing should be continued to the April meeting because the proposed third floor addition merited a Site Visit. Mr. Hall agreed to continue the hearing until the April meeting. Board members requested that the Applicant put up poles to indicate the height of the altered structure.

Mr. Brady moved that the Board continue the public hearing of the Application of Mattworks LLC on behalf of Todd Griffith, for a Special Permit at 269 Sudbury Road to the April meeting at 7:30 p.m., with a Site Visit scheduled for March 16, 2016 at 9 a.m. Ms. Akehurst-Moore seconded. All **VOTED** in favor.

***Saltbox Farm for a Special Permit, under Sections 5.4.5 and 11.6, for the temporary accessory use of outdoor events and dinners from April to October at Saltbox Farm at 40/54 Westford Road & 155A Lowell Road (Parcels # 1549, 1550-1, 1550-2)***

Mr. Brady recused himself from the hearing and left the room.

Chairman Sepucha opened the public hearing and reviewed the Application.

Property owner Benjamin Elliott appeared for the hearing and presented the Application. Applicant Ben Elliott explained the details of the Application. He sought a Special Permit for the temporary accessory use to hold outdoor events and “farm to table” dinners at Saltbox Farm. He noted that he currently had a Special Permit that allowed for cooking class to be held at the site. Mr. Elliott stated that the field at Saltbox Farm provided ample on-site parking for guests and that any potential event would not require any permanent changes to the property. The Applicant advised the Board that he discussed his Application with abutters prior to the hearing and they supported the proposal.

Chairman Sepucha asked for comments from the audience and there was none.

Chairman Sepucha asked from comments from the Board.

Board members discussed the number of events that the Applicant had proposed to hold and asked Mr. Elliott to clarify. Mr. Elliott stated that he did not have an exact number of events at the current moment. He stated that the time frame for the outdoor events and dinners would coincide with the farm’s growing season, which was generally April through October. Ms. Akehurst-Moore suggested that if the Board were to grant the Special Permit, their approval should include a condition that limited the total number of events to be held, especially since it was the first time that the Applicant had sought to hold events at the location. Several Board members agreed that the Board should err on the side of caution and set a limit on the amount of events. The Applicant advised the Board that it was his intention to be mindful of his neighbors and he was more than willing to accept a condition limiting the number of events. At the request of the Board, Building Commissioner Minty noted that other special permits included similar conditions.

Board members discussed how long the Special Permit should be granted for. The Board found that the Special Permit should be valid for one year, so that the Board could reevaluate the Special Permit after one year and confirm that the events were not affecting the neighborhood in a detrimental way.

Chairman Sepucha asked Building Commissioner Minty if other standard conditions were associated with such events.

Building Commissioner Minty noted that one of the standard conditions was that the Applicant must consult with the Concord Police Community Safety Officer well in advance of each event and secure all appropriate permits from that Department and comply with all requirements for parking and traffic. He mentioned that the standard conditions for permitting such events also required that the Applicant obtain all other permits necessary for holding these events and that all bathroom facilities associated with the events must comply with ADA accessibility requirements. The Building Commissioner stated that previous Boards also incorporated conditions requiring that all lighting and music associated with events be turned off by a certain time. Mr. Elliott advised that he was content with all the conditions discussed by the Board and mentioned by the Building Commissioner.

Ms. Akehurst-Moore moved to grant to the Applicant, Saltbox Farm a Special Permit with conditions, for the temporary accessory use of outdoor events and dinners from April to October at Saltbox Farm at 40/54 Westford Road & 155A Lowell Road, finding that the adverse effects of the temporary accessory use of outdoor events and dinners from April to October at Saltbox Farm will not outweigh its beneficial impacts to the public interest, the Town and the neighborhood, in view of the characteristics of the site and the proposal in relation to that site. Mr. Smith seconded. All **VOTED** in favor.

***XSS Hotels on behalf of WDC Concord Hotel LLC, for a Sign Variance, under Sections 3(c)(2), 8(b)1, and 8(c) of the Sign Bylaw, for relief from total signage area allowed at 320 Baker Avenue (Parcel # 3794-1-2)***

Mr. Brady returned to the meeting.

Chairman Sepucha opened the public hearing and reviewed the Application.

Jarrold Billingsley and Eben Tormey, of XSS Hotels, appeared for the hearing and presented the Application. Mr. Tormey reviewed the details of the Application. The Applicants sought a Sign Variance from the Sign Bylaw to allow for flat wall signage that exceeded the allowable area limit of fifty (50) square feet on any one wall of the business establishment. The Application consisted of two proposed flat wall signs. Mr. Tormey explained that the total area of the first sign was 84 sq. ft. and would be located on the structure’s side façade facing Route 2. The total area of the second sign was 89 sq. ft. and would be located on the structure’s front façade facing the main parking lot. The Applicants noted that the design of each sign consisted of white illuminated ‘Residence Inn’ lettering above red illuminated ‘Marriott’ lettering. The Applicants opined that the request was justified because the proposed signage would allow for guests approaching the property from Route 2 to clearly see the signage prior to getting to the intersection of Baker Avenue and Route 2.

At the hearing, the Applicant provided the Board with materials which compared the proposed signage with scaled down versions of the proposed signage that would not require a sign variance.

Chairman Sepucha asked from comments from the Board.

Mr. Smith asked the Applicants if the proposed signage was similar in scale to signage found on other hotels operated by Marriott. The Applicants stated that the proposed signage was slightly smaller compared to most other Marriott hotels.

Chairman Sepucha inquired about the illumination of the signage. Mr. Tormey noted that the lettering would be illuminated by LED lighting that operated on a photocell cycle. The Applicants stated that on a typical day, the lettering would be illuminated approximately one half hour before dusk to one half hour after dawn.

Chairman Sepucha asked for comments from the audience and there was none.

At the request of the Board, the Building Commissioner briefly reviewed existing signage on abutting structures. After comparing the proposed signage with existing signage nearby, Board members determined that the area of the proposed signage was similar to the area of existing signage found on abutting structures.

Mr. Brady moved to grant to the Applicant, XSS Hotels on behalf of WDC Concord Hotel LLC, a Sign Variance with conditions, for relief from total signage area allowed at 320 Baker Avenue, finding that the literal application of the Sign

Bylaw, would involve both practical difficulties and unnecessary hardship for the business, and that desired relief may be granted without substantially derogating from the intent and purpose of the Sign Bylaw. Ms. Akehurst-Moore seconded. All VOTED in favor.

There being no further business, the meeting was adjourned at 8:25 p.m. on a motion by Mr. Brady. Ms. Akehurst-Moore seconded. All **VOTED** in favor.